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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,076	09/24/2003	Javier Miguel Afif	069304.000004	5677

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Houston, TX 77208-1389

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/670,076

Applicant(s)

AFIF, JAVIER MIGUEL

Examiner

Victor S. Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/21/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I, claims 1-4, in the reply filed on 11/30/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 9/21/2005 has been considered by the examiner. However, it should be noted that the IDS contains apparent errors in two U.S. Patent Numbers. Corrected U.S. Patent Numbers are included in attached PTO-892.

### ***Specification***

3. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

In particular, this application throughout includes terminologies which are so different from that which are generally accepted in the art to which this invention pertains. For example, in the abstract and paragraph 0027, the terms "seasoning" and

"seasoned" appear to be commonly known "curing" and "cured", respectively.

Clarifications and an appropriate rewrite are requested.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted that claims in their present form are replete with informalities, vague and indefinite phrases, rendering the claims incomprehensible. For example:

First, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, in claim 1, please rewrite the transition phrases "consists on", "comprised by" and "consisting on" as --consists of--, --comprising-- and --consisting of--, respectively, so as to clarify the intended meaning and scope of instant invention.

Second, in claim 1, line 2, the inclusion of an apparent open term "comprised by" within an apparent closed limitation recited as "consists on" renders the claim vague and indefinite, i.e., it is not clear what is the full scope of the claimed invention.

Third, in claim 1, line 3, it is unclear which is the antecedent basis for the term "the other", proper rewrite to clarify is requested.

Fourth, claim 1 is incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are between the non-woven material and foamed plastisol.

Finally, in view of the apparent closed transition term “consists on”, it is unclear whether the adhesive layer between the nonwoven layer and PVC film (see Fig. 3) is a claimed element, and the phrase “both attached by means of an adhesive” appears to change the scope of the claimed invention to include additional element between the “two layers” (see claim 1, line 2) in contrary to the apparent closed transition term “consists on”. Also, it is unclear what is the structural relationship relating to the term “attached”, i.e., to where? Clarifications and/or corrections are requested.

In addition, please also correct any other informalities in claims 1-4 which may have been overlooked. Such as the term “because” throughout claims 2-4, since it is unclear what this term is directed to?

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hawley (US 5854144).

Hawley's invention is directed to a flexible cushioned liner laminate having a printed plastic sheet laminated to a non-slip foam material carried on a non-woven spun bond polyester fabric (abstract and column 2, line 66 to column 3, line 2). In a preferred embodiment, the top layer is a polyvinyl chloride plastic sheet having decorative patterns printed thereon (column 3, lines 4-6). A thin layer of adhesive is used to bind the laminated layers (column 3, lines 44-46). Further, Hawley '144 teaches that PVC foam with plasticizer (a plastisol) is a known foam material (column 19-22). The total thickness of the laminate is approximately 0.044 inches (column 4, lines 56-58).

For claims 1-3, Hawley teaches all the limitations as claimed, claims lack novelty.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawley (US 5854144) in view of Sachs et al. (US 2004/0172763 A1).

The teachings of Sachs are again relied upon as set forth above.

Hawley lacks a teaching that the foamed plastisol is irregularly distributed.

However, it is noted that Sachs invention is directed to a non-slip cushion, and Sachs expressly teaches that the non-slip material is applied to less than the entire underside of the cushion (abstract), in an irregular pattern (paragraph 0006). As such,

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in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to modify Hawley's non-slip cushion liner by forming an irregularly distributed pattern of non-slip material at the underside, as taught by Sachs. It should be noted that the selection of a known irregular pattern based on its suitability for its intended use (non-slip) supported a *prima facie* obviousness determination. See MPEP § 2144.07.

### ***Conclusion***

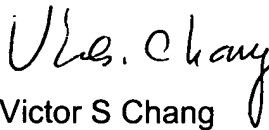
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor S Chang  
Examiner  
Art Unit 1771

1/20/2006